IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2901 OF 2005

Mohan Mundayya Nagalla ..Petitioner.

Versus

The Dy. Commissioner of Police & Anr. ..Respondents.

Mrs. V.B. Thadani for the Petitioner.

Mr. A.H. Palekar, AGP for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 05TH JULY, 2005.

P.C.:

1. Rule. Rule made returnable forthwith. Mr. Palekar waives notice for Respondents. Heard by consent.

2. The petitioner has challenged the cancellation of licence on the ground that he has breached conditions of licence. This action has also been confirmed by the Minister of State in Appeal.

Undoubtedly, the licence has been cancelled for offences registered against the petitioner, inter-alia, under Sections 33(w) and 110 the Bombay Police Act during the period from 1998 to 2000 and for violation of certain conditions of licence incorporated by virtue of Rules 7(A), 8(1) and 8(2). The learned counsel for the petitioner points out and these facts are not disputed by the Respondents that the licence has been renewed after the year 1998 right up to 31st March, 2004, vide table at Exh.A to this petition. In the circumstances and in view of the decision of this court in the case of K.V. Acharya & Anr. vs. State of Maharashtra and Ors., reported in 2000 CRI. L.J. 2038, delivered on 13.01.2000, it is clear that the licence which has been renewed subsequent to the alleged breach of conditions or commission of offences ought not to be cancelled on the ground of those breaches since renewal implies a deemed condonation of the breach. The decision in Acharya's case was in regard to the suspension of the licence. I, however, see no reason why the same principle ought not to be applied to cancellation of the licence. No decision to the contrary has been pointed out on behalf of the Respondents.

3. Rule is made absolute. The impugned order is set aside. It is made clear that this order shall not grant any immunity to the petitioner in regard to any future breach or any offence.

05.07.2005 (S.A.BOBDE,J.)

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